

APPROVED: Meeting No. 33-82

ATTEST:

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
MEETING NO. 30-82

July 26, 1982

The Mayor and Council of Rockville, Maryland, convened in executive session in the City Manager's Conference room, at 7:00 p.m. on Monday, July 26, 1982, to discuss personnel and litigation.

There being no further business to come before the Mayor and Council in executive session, the meeting was adjourned at 8:00 p.m.

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, July 26, 1982, at 8:00 p.m.

PRESENT

Mayor John R. Freeland

Councilman Steve Abrams

Councilman Douglas Duncan

Councilwoman Viola Hovsepian

Councilman John Tyner, II

The Mayor in the Chair.

In attendance: City Manager Larry Blick; City Clerk Helen Heneghan; City Attorney Paul Glasgow; Information Officer Sue M. Patterson; Director of Community Development and Housing Assistance Douglas Horne; Director of Finance John Lawton;

Re: City Manager's Report

Mr. Blick reported the following:

1. The State Highway Administration, through its District Engineer, has completed the signalization study, and a traffic signal will be installed at the intersection of Maryland Avenue and Falls Road. It will not depend on the finished construction of the interchange but will be started sooner.

Re: Appointments

Mayor Freeland made the following appointments. They were confirmed by the Council.

Traffic & Transportation Commission: Mary Lynn Scott - Chairman

Suraya Teeple - member - two year term
553 Monet Drive

Meeting No. 30-82

-2-

July 26, 1982

Human Rights Commission: Summerlyne Harrison - four year membership
314 Grandin Avenue

Robert E. Dorsey - four year membership
7 Marcia Court

Re: Award of Contract
Bid No. 2-83

Bids were opened for the Fiscal Year 1983 smoothseal contract at 3:00 p.m. Tuesday, July 13, 1982 in the City Manager's Conference Room. Three bids were received as follows:

A.H. Smith, Branchville, Maryland (\$29.10 per ton)	\$217,101.00
F.O. Day Company, Rockville, Maryland (\$29.74 per ton)	219,201.40
W&W Paving, Inc., Frederick, Maryland (\$31.66 per ton)	231,477.60
Engineer's Estimate (\$34.00 per ton)	\$250,365.00
Budget Appropriation	\$256,544.00

Smoothseal is a thin (1/2" - 3/4" thick) asphalt paving overlay which improves skid resistance and aesthetic quality while extending life through improved water seal and additional asphaltic depth. The process has been used in Rockville since 1960. The three bid response is normal due to the nature of the work and material.

Our current bid is based on 7110 tons of smoothseal and utility adjustments for streets and the City Hall lower parking lot. A contractual provision was included which allows the City the option to adjust the quantities to utilize the total smoothseal appropriation. Because smoothseal is a preventative maintenance process, there are additional streets which could benefit by addition to this year's program. This year's per ton cost is 3 percent less than paid last year (smoothseal was \$29.98 per ton in 1981 which also was considered very favorable) and because of this favorable price, it would be advisable to extend the contract to utilize the total appropriation.

The low bidder, A.H. Smith is an experienced paving contractor who has previously very satisfactorily accomplished the smoothseal contract many times.

Staff recommends that the Mayor and Council award the contract to the low bidder, A.H. Smith, at the unit price quoted and in the total amount of the appropriation of \$256,544.00.

On motion of Councilman Tyner, duly seconded and unanimously passed, Bid No. 2-83, for Smoothseal, was awarded to A.H. Smith, Branchville, Maryland, the low bidder, in the amount of \$29.10 per ton.

Meeting No. 30-82

-3-

July 26, 1982

Re: To adopt the Industrial Discharge Control Program of the WSSC for the purpose of meeting the requirements of the Clean Water Act

Resolution No. 21-82

This is a resolution for action by the Mayor and Council that will enable the City to bill certain industrial sewer users for a pretreatment program for toxic wastes. This program is conducted by the Washington Suburban Sanitary Commission and is mandated by the Federal law.

Councilman Abrams asked how many users would be affected. Mr. Lawton said approximately 500, primarily industrials with a potential to discharge toxic waste. He introduced Mr. Boswell and DeLireto, present this evening to further brief the Council. Councilman Abrams asked the gentlemen to describe the program. They explained that because of federal mandate the City has joined with the WSSC to apply for a grant instead of the necessary testing for pollutants. The resolution enables the City to charge a fee to its industrial sewer users for monitoring pollutants and for remitting such fees to WSSC.

On motion of Councilman Duncan, duly seconded and unanimously passed, Resolution No. 21-82, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council adopting the Industrial Discharge Control Program of the WSSC was adopted by the Mayor and Council.

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council.

1. Howard Silberstein, 2008 Dundee Road. Mr. Silberstein corrected the Mayor and Council minutes of June 14. Page 2 should read "employment of Rockville residents" in the Winmar/Nordal contract, and a Newsletter article is referred to when in such it should be newspaper. These corrections refer to the citizen's forum portion of the meeting when Mr. Silberstein was speaking. Mr. Silberstein noted the passing this past week of Mr. David Betts, a long-time Rockville resident who appeared before the Council many times. He supported the Council's appointment of an advisory commission on public education and suggested that the Chairman of the Human Rights Commission be a member of that Commission. He also suggested that when the resolution on nuclear disarmament is adopted that the transcript be included with the resolution when it is sent to elected representatives in Washington, D.C.

2. Ben Gitnick, 151 S. Adams Street, President of West End Citizens Association. Mr. Gitnick read a letter to the Council referring to a zoning application that was heard by the Council two weeks previously on RTH-2-82 and made several suggestions for setback, landscaping and ingress and egress. He then read a letter to the Council from the West End Citizens Association noting that the Mayor had instructed the staff to notify residents of upcoming actions on RTH-2-82. Last week a meeting was held by the Traffic and Transportation Commission where RTH-2-82 was discussed and the neighborhood was not notified. Councilman Tyner asked Mr. Gitnick if the Citizen's Association felt the paper street, Mount Vernon, should no longer be used as a buffer as was approved in the Town Center Plan. Mr. Gitnick said the citizens association would like only a partial opening and not a full opening of the street since a five-point intersection will be cumbersome. Mayor Freeland suggested that the staff notify residents when these zoning matters are being discussed.

3. Tom Lawrey, 301 Cedar Lane. Mr. Lawrey said that David Betts was a wonderful friend to many of the people in the Chamber this evening and it would be nice to have him here singing this evening. He read a letter to the editor printed in the Journal Newspaper from Linda Beye complimenting Mayor Freeland for his fast action with problems at the Housing Authority. He noted that the City of Rockville earned runner up status in the Livability Award from the United States Conference of Mayors and read a June 22 Gazette editorial commending Councilman Duncan.

There being no other citizen wishing to be heard, the Mayor closed the citizen's forum portion of the meeting.

Re: Resolution to establish
the Rockville Advisory
Commission on Public Education

On motion of Councilman Duncan, there was introduced upon the table a resolution to establish the Rockville Advisory Commission on Public Education. A public hearing will be held on this resolution on Monday, October 25, 1982. The City Manager has suggested that a questionnaire be developed for school board candidates. There was no objection from the Council to this suggestion provided that the questions are very carefully drafted and submitted to the Mayor and Council prior to release. Councilman Tyner noted that the public hearing should closely look at the point of the committee's role and curriculum issues. Mr. Hobbs said there could be a problem in that area and at the initial meeting

Meeting No. 30-82

-5-

July 26, 1982

the commission feel it should stay away from that area. Councilman Duncan explained that they were not addressing curriculum as book selection necessarily, but more so whether or not a vocational school should be located in a certain area. Mayor Freeland asked for staff recommendation on the question of a member of the Human Rights Commission on the committee since the Mayor and Council is willing to entertain that suggestion.

Re: Introduction of Ordinance:
To add a new Section 12-1.18B to Chapter 12 of the "Laws of Rockville", entitled Public Nuisances, Morals and Conduct, to notify purchasers of levied or estimated special assessments

On motion of Councilman Abrams, there was introduced upon the table an ordinance adding a new Section 12-1.18B to Chapter 12 of the "Laws of Rockville" notifying purchasers of levied or estimated special assessments. The public hearing will be held November 8.

Re: Approval of request for extension of time of settlement - Mannakee Investors
1.97 acres - Hungerford Drive at Mannakee Street

On November 17, 1980, a contract was executed between the Mayor and Council of Rockville and Mannakee Investors for the sale of 1.97 acres of land located at the corner of Mannakee Street and Hungerford Drive. It was the intent of the developer to construct a 60,000 square foot office building on the site. Settlement was to take place on or before November 18, 1981.

Glen J. Koepenick, Jr., a general partner of Mannakee Investors, on November 2, 1981, requested a six (6) months' extension in the settlement time. His reason for requesting the extension was unfavorable conditions in the mortgage market. The Mayor and Council granted the extension on December 14, 1981, subject to an increase in land price from \$519,700 to \$601,200. Settlement was to take place on or before May 17, 1982.

On May 20, 1982, Mr. Koepenick requested an additional extension for settlement of sixty (60) days because of actions he had taken in forming a co-development team with Eisinger-Kilbane Associates. That extension was granted by the Mayor and Council on June 7, 1982. Settlement was to take place

on or before July 19, 1982. At the time the latest extension was granted, the Mayor and Council stipulated that any future extensions would have to be considered subject to increasing the land price in accordance with the results of a new appraisal.

On July 16, 1982, Mr. Koepenick wrote a letter to the Community Development and Housing Assistance Department requesting a one (1) year extension in settlement. In his letter, he stated that he has made a continuous effort to begin the development. In doing so, he had incurred expenses in excess of \$180,000 for engineering, architectural and legal costs, as well as use permits, etc. He has reconfirmed his joint venture with Risinger/Kilbane Associates and has made modifications in his development plans which he hopes will make him more competitive in the market place.

Since pre-leasing has become a requirement of financing, Mr. Koepenick is offering equity in the building to any firm leasing more than 15,000 square feet. He is also having the building redesigned in order to reduce the construction costs. Mr. Koepenick submitted documentation with his request which he feels indicates the price of the land should remain at approximately \$601,200.

Staff recommends that the disposition agreement with Mannakee Investors be extended for an additional year (until July 19, 1983) subject to the following conditions:

- 1) The present \$25,000 deposit be increased to \$50,000
- 2) That the land price reflect the results of a new appraisal to be obtained by the City. The appraisal will establish a monthly rate at which the land price will increase in accordance with prevailing market conditions. In this way, the sooner settlement is held, the lower the price will be. In no event will the price be less than \$601,200.
3. Since the building is being redesigned, the new design must be approved by the Mayor and Council as was the original building design.
4. No further extension be granted.

Mayor Freeland asked if there were any other parties interested in the land. Mr. Horne said his department had received no calls on the sale of the property in six to eight months.

On motion of Councilman Abrams, duly seconded and unanimously passed, the Mayor and Council approved the staff's recommendation with the change that the extension is for 18 months or until January 18, 1984.

July 26, 1982

Re: Public Hearing: Adoption
of a Resolution to Seek a
Mutual and Balanced Approach
to Nuclear Arms Reduction.

The Mayor and Council conducted a public hearing on a resolution seeking a mutual and balanced approach to nuclear arms reduction and heard those persons as will be found in the official stenographic transcript of the hearing. There being no other citizen wishing to be heard, the Mayor declared the hearing closed with the record to be held open for two weeks.

Councilman Abrams asked the Mayor if he would entertain a motion to close the record and adopt the resolution this evening. The Mayor said Councilman Abrams is welcome to move the resolution and with a second it could be voted. He, however, would prefer to take time and reflect on this issue adequately. Councilman Tyner supported the Mayor's statement and said his position in the record is clear but he feels this Mayor and Council must consider the matter carefully. His colleagues have their opinions and their personal conscience must decide the issue and he is sure that all who have testified will have the grace to allow those personal decisions.

Councilman Duncan thanked Mayor Freeland for keeping the record open for two weeks in order to allow sufficient time for reflection. Councilwoman Hovsepien said that a two week record is an excellent idea. The Mayor thanked all who attended. The record will close on August 9.

Re: Work Session: Open Meeting
Legislation for Condominium
Associations and Homeowners
Organizations

The Mayor and Council sent notice to several condominium associations, cooperatives, homeowners association and homeowners organizations, the bar association and the Board of Realtors, inviting them to a work session to discuss the possibility of the City enacting legislation patterned on the Montgomery County Homeowners' Association bill which went into effect today. That bill is intended to ensure clear cut procedures for the open conduct of meetings of homeowners associations, condominium associations and other organizations where membership is a condition of owning and occupying a unit. Mrs. Dorothy Sager, the President of the Montgomery County Association of Condominium owners spoke in favor of the legislation that was adopted by Montgomery County. She compared the operation of the condominium organization to that of a municipality. Maxine Hillsburg

of Forum Apartments spoke in favor of the legislation. There is a possibility that once the legislation is adopted it could be administered by Montgomery County through the office of Community Affairs. Since all present in the audience favored the legislation, on motion of Councilman Duncan, duly seconded and unanimously passed, the staff was asked to prepare an ordinance for introduction by the Council. Councilman Abrams asked that information be supplied to the Council so that they would not overlook anything. He stressed that he wanted to ascertain that all the regulations were well enough tailored so that the new regulations themselves create no problems in the hope of curing some. Mayor Freeland noted that a public hearing decision will be made once the Council reviews the legislation. He also asked the staff to send in recommendations on the cost of implementation of the ordinance. He would like this material as soon after August 16 as possible.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. C. T. Cohen, re dangerous crossing at Twinbrook Pool
2. E. F. Manny, re chipped driveway
3. G. Wimsatt, President, Montgomery Historical Society, re thank you
4. W. J. Mooney, re Senior Center
5. Invitation - Open House at McAuliffe House
6. E. W. Coolidge, re traffic on First Street
7. M. E. VandenDriessche, re parking violations

Re: Information Items

1. Memo from City Attorney re William Lawson King, et al v. Mayor and Council of Rockville
2. Copy of letters responding to citizen complaints
3. Letter to GIANT Food re driveway relocation
4. Twelve month calendar
5. Report on Cable TV selection from City's representative

Councilman Tyner noted that he has heard many compliments on the City's representative to the Cable Television Committee. Mayor Freeland agreed and asked that a letter be drafted in appreciation of his fine efforts.

Re: Approval of Minutes

On motion of Councilwoman Hovsepien, duly seconded and unanimously passed, the Minutes of Meeting No. 26-82, June 28, 1982, were approved as amended.

Meeting No. 30-82

-9-

July 26, 1982

On motion of Councilman Duncan, duly seconded and unanimously passed, the Minutes of Meeting No. 27-82, July 12, 1982, were approved as amended.

Re: New Business

1. Councilman Tyner asked the City Manager to look into the Rockville Municipal Swim Club's free swim program since it could in fact be a problem to other private pools in the area. The City Manager explained that the purpose of this free swim is to allow economically disadvantaged people to use the pool at times that are not considered peak hours.

2. Mayor Freeland told the City Manager that there are some owners of rental property who object to not being furnished with a check list prior to an inspection of their property. The City Manager said to do so would entail a tremendously long list. Mayor Freeland suggested a reasonable list be made available to landlords to assist in their rental compliance.

Re: Adjournment

There being no further business to come before the Council in general session, the meeting was adjourned at 11:50 p.m. to convene again in general session on Monday, August 16, 1982, at 8:00 p.m. or at the call of the Mayor.